

ARKANSAS SUPREME COURT

No. CR 98-1197

JASON GATES
Petitioner

v.

STATE OF ARKANSAS
Respondent

Opinion Delivered April 23, 2009

PRO SE MOTION FOR TRANSCRIPT
[CIRCUIT COURT OF LONOKE
COUNTY, CR 96-232]

MOTION DENIED.

PER CURIAM

A jury found petitioner Jason Gates guilty of capital murder and sentenced him to life imprisonment without parole. We affirmed the judgment. *Gates v. State*, 338 Ark. 530, 2 S.W.3d 40 (1999). Petitioner has filed a pro se motion in this court seeking a copy of, or access to, the trial transcript.¹ Petitioner asserts that he is indigent, that he has not previously received a copy of the transcript, and that there are issues he believes may merit a challenge to his conviction. He avers that he requires the transcript to present these issues to this court.

Indigency alone does not entitle a petitioner to free photocopying. *Nooner v. State*, 352 Ark. 481, 101 S.W.3d 834 (2003) (per curiam). Petitioner is incarcerated and therefore not in a position to examine the materials in our clerk's office; to provide him access to the record will require that he be provided copies at public expense. A petitioner is not entitled to a free copy of material on file with this court unless he or she demonstrates some compelling need for specific documentary

¹ For clerical purposes, the motion was assigned the same docket number as the direct appeal of the judgment.

evidence to support an allegation contained in a petition for postconviction relief. *Id.* In order for this court to provide a petitioner with a copy of a trial record to facilitate a postconviction proceeding, he must make a showing that the record is necessary by identifying specific points that cannot be properly raised without access to the trial record. *Thomas v. State*, 328 Ark. 753, 945 S.W.2d 939 (1997) (per curiam).

Petitioner has not identified any postconviction relief that may be available to him or any proceeding that has been filed. He has not identified specific points that cannot be properly raised in any such proceeding, even though he alleges that issues do exist. Petitioner has therefore failed to make the necessary specific demonstration of need for the record to be provided to him at public expense.

We note that when an original action has been filed in this court, the material pertaining to it remains permanently on file with the clerk, unless it is being maintained under seal. Persons may review the material in the clerk's office and photocopy all or portions of it. An incarcerated person desiring a photocopy of material on file here may write this court, remit the photocopying fee, and request that the copy be mailed to the prison. All persons, including prisoners, must bear the cost of photocopying. *Moore v. State*, 324 Ark. 453, 921 S.W.2d 606 (1996) (per curiam).

Motion denied.